



MHAU080006442021.

R.D.No.05/2021.  
Mahadev Vs. Nasib.

**ORDER PASSED BELOW EXH-17.**

Perused application, say and documents on record.

2. Present R.D. is filed for execution of decree passed by this Court in R.C.S. No.20/2012. The said decree is for recovery possession of suit land. The applicant namely Fakira Abdul Rajjakkhan filed present application to add him as a party under order 1 rule 10 of Civil Procedure Code. It is the contention of the applicant that, he is the owner and possessor of plot no.3 having ad-measuring area of 2 H 2 R out of total area 55 H 59 R of Gat no.107 situated at village Ambhai, Tq.Sillod. It is further contended that, the plot no.3 is purchased by the applicant from one Babu Shankar Giri by obtaining the permission from collector Aurangabad.

3. It is further contended by applicant that, in the year 2008, decree holder also sold plot no.4 (suit land) to his brother Nasibkha Rajjakkhan & oths., i.e. judgment debtor in the present R.D. The consideration amount of Rs.3 lakhs of said transaction is also paid to the decree holder. In such a situation, with ill-intention decree holder filed suit R.C.S.No.20/2012 for recovery of possession against judgment debtor. It is further contended that, decree holder by misleading the Court obtained the order of possession warrant of suit land. Therefore, the applicant prayed to make him as a party to the present Darkhast proceeding.

4. Decree holder filed his say at Exh-22 and contended that, boundaries of plot no.3 is correct. Decree holder specifically contended that, agreement to sale or sell of plot no.4 (suit land) was never been executed between him and Nasibkhan Rajjakkhan & oths., The applicant has no concern with plot no.4. Therefore, prayed to reject the application.

5. Perused the judgment and the decree passed in R.C.S.No.20/2012 filed at

Exh-4/1 and Exh-4/2. On perusal of the said record it reveals that, the decree holder filed suit against Nasibkha, Sharifkhan, Zakirkhan for recovery of possession. The suit proceed without the written statement of judgment debtors. The suit was decreed and the predecessor of this Court directed to handover the suit land to the plaintiff within the period of two months from the date of judgment. In the said suit, plot no.4 having area 5 acre 0 R out of total area of 55 H 59 R of Gat no.107 was the suit land. The facts pleaded by the applicant in respect of plot no.3 have no concern with plot no.4. It reveals from the boundries of plot nos.3 and 4 that, both the plots are distinct properties. The contention of the applicant that, decree holder executed sale deed of suit plot to Nasibkha Rajjakkhan and others. It is important to note that, Nasibkha Rajjakkhan & oths., are already parties to the R.C.S.No.20/2012. They have not raised any objection regarding the claim of plaintiff in the said suit. Surprisingly brother of judgment debtor i.e. present applicant raised plea of sale deed of suit land which has no base, relevancy. The applicant was not party to the R.C.S.No.20.2012. Therefore, I do not found substance in the application filed by brother of judgment debtor. It also appears to the Court that, he is not necessary party in the present execution proceeding. The decree passed by this Court is not challenged by judgment debtor. That means decree is final. Hence, considering all these facts, I pass following order,

**ORDER**

Application is rejected.

Sillod.

Date – 29.03.2022.

Jt. C.J.J.Division Sillod.

## CERTIFICATE

I affirm that, the contents of this [P.D.F.](#) file order are same, word to word, as per the original order.

Name of the Court	:-	Jt. C.J.J.Division Sillod.
Name of the Stenographer	:-	K. P. Patil.
Date of order	:-	29.03.2022.
Order signed by the P.O on	:-	29.03.2022.
Order digitally signed on	:-	30.03.2022.
Order uploaded on CIS	:-	30.03.2022.

\* \* \* \*